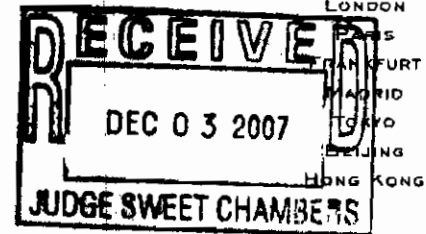
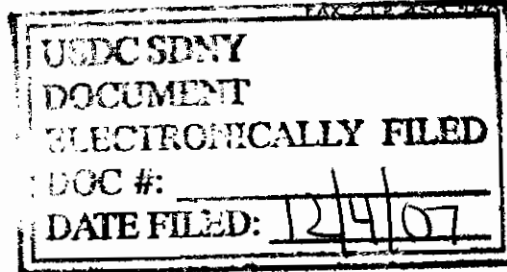


DAVIS POLK & WARDWELL

450 LEXINGTON AVENUE
NEW YORK, NY 10017

MENLO PARK
WASHINGTON, D.C.

NANCY B. LUDMERER
212 450 4276
NANCY.LUDMERER@DPW.COM



December 3, 2007

Re: Freudenberg, et al. v. E*Trade Fin. Corp., et al., 07 Civ. 8538 (RWS)
Boston, et al. v. E*Trade Fin. Corp., et al., 07 Civ. 8808 (RWS)

The Honorable Robert W. Sweet
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Dear Judge Sweet:

We represent E*Trade Financial Corporation ("E*Trade"), Mitchell H. Caplan, and Robert J. Simmons (collectively the "Defendants") in the above-referenced actions. We write on behalf of all parties in these two cases to respectfully request that the pretrial conferences currently scheduled for Wednesday, January 16, 2008, at 4:30 p.m. be cancelled at this time.

Pursuant to the Private Securities Litigation Reform Act (the "PSLRA"), motions by members of the purported classes to serve as lead plaintiffs in these two actions are due today. Further, pursuant to a stipulated scheduling order entered by Your Honor on November 16, 2007, a copy of which is attached for the Court's convenience, once the Court has appointed lead plaintiffs and lead plaintiffs' counsel, plaintiffs shall have 60 days from entry of the Court's order to serve a consolidated amended complaint. Once served with the consolidated amended complaint, Defendants shall have 60 days to answer, move, or otherwise respond to that complaint.

Defendants' time to move or otherwise respond to the complaint has not commenced, and all discovery is otherwise stayed pursuant to the PSLRA. See Sedona Corp. v. Ladenburg Thalmann & Co., No. 03 Civ. 3120 (LTS) (THK), 2005 U.S. Dist. LEXIS 23905, at *5 n.1 (S.D.N.Y. Oct. 14, 2005) ("there is no dispute that the PSLRA stay of discovery applies when an initial motion to dismiss is contemplated, but has not yet been filed"). For the reasons above, all

The Honorable Robert W. Sweet

2

December 3, 2007

counsel believe the pretrial conferences in these actions are not necessary at this time.

If cancellation of the conferences is acceptable to Your Honor, all counsel respectfully request that Your Honor "so-order" this letter and that Your Honor's chambers forward the letter to the Clerk's Office for docketing.

Thank you for your consideration.

Respectfully submitted,

Nancy B. Ludmerer

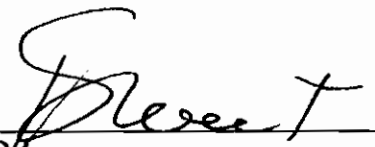
Nancy B. Ludmerer

Attachment

cc: David A. Roscnfeld (counsel for Larry
Freudenberg) (via e-mail)
D. Seamus Kaskela (counsel for
William Boston) (via e-mail)

By Facsimile

So Ordered:



U.S.D.J. 12-3-07